



## ADMINISTRATIVE PROCEDURES MANUAL

**TITLE:**  
FREEDOM OF INFORMATION  
ACT (FOIA)

**EFFECTIVE DATE:**  
January 1, 1998

**PROCEDURE #:**  
11 (former 02)

**PURPOSE:** To provide a standard procedure for response to requests for public records submitted under the Freedom of Information Act (Act 422 of 1976, as amended; MCLA 15.231, et seq.).

**APPLICATION:** Department wide.

**GENERAL STATEMENT:** The Freedom of Information Act provides that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees. It is the policy of the Department of Agriculture and Rural Development (MDARD) to conduct its affairs in compliance with the Freedom of Information Act.

The Act creates the right of all persons to inspect, copy, or receive copies of public records. Public records include all documents in writing. "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means or recording and includes letters, words, pictures, sounds or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful contact. The Act identifies categories of public records that are exempt from disclosure. The Act states that requests may be made verbally, but it is MDARD's policy to ask that any request for disclosure be made in writing. Responses to requests for non-exempt records must be made within five working days except that a ten working day extension may be authorized. If the request is not reduced to writing, members of the Department of Agriculture and Rural Development will endeavor to respond to oral requests for records or assistance consistent with other policies, procedures and division practices regarding service to the public. The department is noted for its strong commitment to public service.

The Act does not require creation of a record or creation of a summary of a record and the Department of Agriculture and Rural Development will not do so.

Nothing in this policy is intended to reduce that commitment. For specific detail on processing FOIA requests, contact your division FOIA coordinator.

### **RESPONSIBILITY:**

**FOIA COORDINATOR:** MDARD Director will appoint one person to serve as the department Freedom of Information coordinator as required in Section 6 of the Act. The FOIA Coordinator shall:

1. Accept, process, refer, grant or deny FOIA requests. The FOIA Coordinator is the only person authorized to deny or partially deny a FOIA request (except as specified below)
2. Maintain records required by law and policy. The FOIA Coordinator will produce an annual FOIA report and will maintain all records in compliance with the requirements of the Act.

3. Provide FOIA training to appropriate departmental staff.
4. Draft, update, maintain and publish guidelines for responding to FOIA requests. MDARD's "Freedom of Information Act Implementation Guidelines" is the definitive procedure for use within the department.
5. Serve as the Department source of expertise for FOIA questions and maintain liaison with the Attorney General FOIA unit for purposes of legal guidance.
6. Publish a FOIA fee structure annually reflecting the current cost of processing a request Form AG-053 as soon after the start of each fiscal year as possible.

**DIVISION DIRECTORS:**

Division directors are appointed as Associate FOIA coordinators. Through specifically delegated and trained staff, division directors shall:

7. Grant all FOIA requests meeting the requirements of the Act
8. Issue 10-day time extension notices when necessary
9. Deny FOIA requests but only in the event that the requested document does not exist. The FOIA coordinator must process denials for any other purpose.
10. Maintain a file of FOIA requests received during the current calendar year and at the end of the calendar year, forward the entire file to the FOIA coordinator.

**ALL DEPARTMENTAL STAFF:**

Departmental staff shall utilize MDARD's "Freedom of Information Act Implementation Guidelines" for responding to FOIA requests. Copies of this document have been provided to specifically designated division staff trained to respond to FOIA requests. Staff who have not received FOIA training should not respond to FOIA requests.

11. Any departmental staff who receives a written request for a public record (as defined in the Act) must immediately bring that request to the attention of the division director (or delegated division staff) responsible for that record.
12. Because responses to FOIA requests must occur within five business days, all departmental staff must use the most expeditious means of communication available. If it is not known where the requested record is held, the request must be immediately forwarded to the FOIA coordinator.
13. Requests received by MDARD regional supervisors may be answered from the supervisor if the requested record exists with them, but the appropriate Division Director (or delegated division staff) must be advised of this action before the request is answered.
14. The department will charge a fee based on the current fee structure (on attached form AG-053) to cover the cost of processing a FOIA request if those costs exceed \$50.00.
  - a. Requests that cost less than \$50.00 will be provided without charge.
  - b. Costs in excess of \$50.00 are to be recorded on Form AG-053 and appropriate notice sent to the requestor according to MDARD's "Freedom of Information Act Implementation Guidelines".
  - c. Only FOIA trained staff should process FOIA billings.
15. Process receipt of checks for deposits and final payment for completing a FOIA request. If a check is received with no index number notated, the FOIA coordinator will contact the division(s) for assistance.

Notify FOIA coordinator of receipt of monies.

DEPUTY DIRECTOR:

DIRECTOR:

16. Provide executive direction to the Freedom of Information program as appropriate.
17. Receive all appeals of FOIA denials and will respond to those appeals, in writing, within ten calendar days.
18. In unusual circumstances, authorize a time extension of an additional ten calendar days.
19. Grant, partially grant or deny any appeals received, and notify the deputy director, FOIA Coordinator and the affected division director of the decision.

**REVISION HISTORY:**

Revision #1:

Date May 1, 1987  
Revised 2-07, originally titled, "Copying or Microcomputer List or Label Requests and FOI Requests"

Revision # 2:

Date: January 1, 1998  
Numbering changed to Administrative Procedure 02.  
Entire procedure revised to incorporate new MDARD

FOIA Guidelines and establish a procedure for updating the FOIA fee structure on an annual basis.

Forms AM-043 and AM-044 discontinued by this revision. New form AG-053 is created.

Revision #3:

Date: May 25, 2000  
Procedure updated.

Revision #4:

Date: February 2, 2004  
Procedure updated. New billing floor established. Division names changed to reflect restructure.

Revision #5

Date: June 21, 2010  
Procedure updated to reflect closure of regional offices and division name change.

Revision #6:

Date: March 1, 2012  
Procedure updated to reflect department name change and realignment of some duties related to the Deputy Director and fees and billing.

Revision #7:

Date: June 29, 2015  
Procedure updated to reflect changes in the Act including fees and revised AG-053.

SUNSET DATE:  
January 1, 2017

RESPONSIBLE DIVISION  
FOIA Coordinator